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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/685,077	10/06/2000	Paul Bilibin	PSTM0020/MRK/STM	3148
29524	7590	03/13/2006	EXAMINER	
KHORSANDI PATENT LAW GROUP, A.L.C. 140 S. LAKE., SUITE 312 PASADENA, CA 91101-4710			WEBB, JAMISUE A	
			ART UNIT	PAPER NUMBER
			3629	
DATE MAILED: 03/13/2006				

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/685,077	Applicant(s) BILIBIN ET AL.	
	Examiner Jamisue A. Webb	Art Unit 3629	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 24 August 2005 and 19 December 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-7 and 58-83 is/are pending in the application.
- 4a) Of the above claim(s) 63-65, 67-69, 75-77 and 80-82 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-7, 58-62, 66, 70-74, 78, 79 and 83 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>20060217, 20051219 20050824</u> | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. Claims 1-7 and 58-83 are pending
2. Claims 63-65, 67-69, 75-77 and 80-82 are withdrawn from consideration.

Election/Restrictions

3. Claims 63-65, 67-69, 75-77 and 80-82 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to nonelected species, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on 12/19/05.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1-5, 58, 59, 70 and 72 are rejected under 35 U.S.C. 102(b) as being anticipated by Nicholls et al. (5,485,369).
6. With respect to Claims 1-5, 58, 59, 70 and 72: Nicholls discloses the use of a shipping computer system (see abstract), with a method of using the system and a computer program located on the computer system, which instructs the computer to (column 4, lines 8-24, and columns 15-27) collect parcel specifications, such as weight and dimensions (Figures 4A and 4B), and determines a dimensional weight (Columns 21 and 22, line 65), the examiner considers

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this to be a dimensional calculation rule, due to the fact that it calculated the dimensional rate, according to the carriers specifications. Nicholls then calculates rates for the shipment (column 5, lines 34-40, columns 25 and 26, line 39) based on either the dimensional weight. The examiner considers this to be a billable weight calculation rule, due to the fact that it uses the dimensional weight to calculate the rate charged to the user, therefore considered to be billable weight. Nicholls discloses each carrier having a set of shipping requirements and a predefined rate structure (column 2, lines 17-19, column 4, lines 49-55 and claim 1), and identifying and displaying the carriers along with the rates of services, for each of the parcels according the rules (See Figures 4B, 4C and 4D, column 2, lines 32-38, column 7, lines 25-29 and claim 1) for each carrier. Nicholls discloses this system to be used over a global network (Column 3, lines 38-45) by a shipper, where the shipper has a unique ID (See Columns 17 and 18, Table II-continued). Nicholls discloses the system can be used for multiple parcels (Column 8, lines 18-26)

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out

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the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

9. Claims 7, 71, 73, 78 and 83 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nicholls et al. in view of Kara et al. (6,233,568).

10. Nicholls, as disclosed above for claims 1-3, 70, and 72 discloses the use of calculating rates for multiple carriers, but discloses the automatic selection of the carrier, and fails to disclose displaying all of the rates to the user. Kara discloses a computer program used for multiple shippers that displays that calculate shipping rates of multiple carriers for multiple services (See Figure 8, column 22, lines 20-38). It would have been obvious to one having ordinary skill in the art at the time the invention was made to have the shipping rates of Nicholls be displayed to the user as disclosed by Kara, in order to present the user with information from which to make an informed choice as to a particular shipping service provider by which to ship a particular item. See Kara, column 22.

11. Claims 6, 60-61 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nicholls in view of Barns-Slavin et al. (5,995,950).

12. With respect to Claims 6, 60-61: Nicholls, as disclosed above, for claims 1 and 58, discloses the use of a shipping management system, which uses the dimensional weight to calculate shipping rate of a package. The dimensional weight rate then being the billable rate. Nicholls, fails to disclose determining if the dimensional weight exceeds the carrier's dimensional weight limitations and calculating the rates for carriers, which are capable of

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shipping the weight of the package (Column 1, lines 34-42). It would have been obvious to one having ordinary skill in the art at the time the invention was made, to modify Nicholls, to include the carrier's weight restriction in the rate calculations, in order to factor in the carrier's capability to ship the items, into the calculated rate. See Barns-Slavin, Column 1.

13. Claims 62, 66, 74 and 79 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nicholls in view of Jenson (5,331,118).

14. With respect to Claims 62, 66, 74 and 79: Nicholls discloses the use of a rate system, where the billable weight is calculated with respect to the dimensional weight. Nicholls however fails to disclose the billable weight of the parcels being based on the physical weight. Jenson discloses the dimensional weight and the actual weight is collected, then compared, and whichever weight is the greatest, then calculating the billable rate, based on the largest rate, therefore allowing for the billable weight to be the actual weight (Jensen, Abstract, Column 1, lines 16-60). It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Nicholls, to include the possibility of using either the dimensional rate or the physical weight of an item, in order to allow not online the weight, but the size of an item to be factored into the shipping cost, (See Jensen Column 1)

Response to Arguments

15. Applicant's arguments filed 8/24/05 have been fully considered but they are not persuasive.

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16. The applicant has merely stated that the prior art of references do not disclose the claimed invention, and fails to show how the prior art is different from the claimed invention. As stated above, the examiner considers the prior art to disclose the claimed invention, therefore rejections stand as stated above. The examiner has modified the rejections, to cover the newly added limitations to the claims.

Conclusion

17. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).


A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

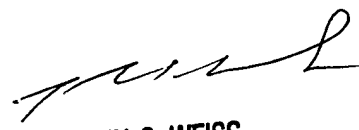
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jamisue A. Webb whose telephone number is (571) 272-6811. The examiner can normally be reached on M-F (7:30 - 4:00).

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Weiss can be reached on (571) 272-6812. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Jamisue Webb


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TECHNOLOGY CENTER 3600